

NO. 22456

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

STATE OF HAWAI'I, Plaintiff-Appellee,

vs.

TETSUYA YAMADA, Defendant-Appellant.

APPEAL FROM THE THIRD CIRCUIT COURT
(CR. NO. 96-380)

ORDER DENYING MOTION FOR RECONSIDERATION

(By: Moon, C.J., Levinson, and Nakayama, JJ.;
and Ramil, J., dissenting;
and Acoba, J., dissenting)

The motion for reconsideration filed on November 25, 2002 by the plaintiff-appellee State of Hawai'i requesting that this court review its published opinion, filed on November 13, 2002, is hereby denied.

DATED: Honolulu, Hawai'i, December 19, 2002.

Justice Ramil, having dissented from the majority opinion, would grant the motion for reconsideration in its entirety.

Dissenting Opinion by Acoba, J.

In line with my concurring opinion, I believe Instruction No. 1 was erroneous and, therefore, would vacate the judgment and remand on that basis. Inasmuch as a proper rendition of the instructions by the trial court may make unnecessary any decision on whether multiple manslaughter convictions are permissible in a prosecution for first degree murder, I do not and would not reach that question.

Kevin S. Hashizaki, deputy
prosecuting attorney,
for the plaintiff-appellee
State of Hawai'i,
on the motion